

Message Text

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E.O. 11652 N/A

TAGS: MARR, IT

SUBJ: ARMED SERVICES BOARD OF CONTRACT APPEALS DECISION IN
CESICA CASE

REF.: STATE 177350

1. WE BELIEVE THAT CONTRACT APPEALS BOARD DECISION CREATES
NEED FOR A PROMPT STRONG DEMARCHE TO GOI. WE HAVE BEEN PLANNING
TO MAKE A RENEWED APPROACH ON THE QUESTION OF REIMBURSEMENT
OF PAST DUNN-VANONI CLAIMS WITH THE RETURN THIS MONTH OF KEY
OFFICIALS TO ROME AFTER THE AUGUST HOLIDAYS. IT IS CONCEIVABLE
THAT CESICA DEVELOPMENT WILL ACTUALLY HAVE A POSITIVE EFFECT
IN FINALLY SECURING GOI ACTION ON CLAIMS REIMBURSEMENT. OUR
DEMARCHE WOULD BE DESIGNED (A) TO REMIND GOI OF ITS PLAN EARLIER
THIS YEAR TO INCLUDE AUTHORIZATION FOR REIMBURSEMENT IN OTHER
LEGISLATION; (B) TO EMPHASIZE IMMINENCE OF USG PAYMENT TO
CESICA AND THE SERIOUS EFFECT SUCH PAYMENT WOULD HAVE ON
CONGRESSIONAL OPINION IN PERIOD OF GREAT BURDENSARING DEBATE
WERE IT TO BECOME KNOWN; AND (C) TO RECALL TO GOI THAT WE HOLD
IT RESPONSIBLE FOR ANY PAYMENT MADE BY USG, THROUGH A DIPLOMATIC
CLAIM IF NECESSARY.

2. WE BELIEVE REPRESENTATION WOULD BEST TAKE FORM OF NOTE
VERBALE SUBMITTED AT HIGH LEVELS, INCLUDING PRIME MI-
MINISTER. IN LIGHT OF PROJECT WASHINGTON MEETINGS OF INTER-
AGENCY TAX RELIEF COMMITTEE, WE ASSUME WASHINGTON WILL WISH
TO PREPARE TEXT OF SUGGESTED NOTE. FOR OUR PART, WE WOULD
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SUGGEST NOTE BE ALONG FOLLOWING LINES:

3. WE SHOULD BEGIN BY BRIEFLY SUMMING UP THE HISTORY OF GOI DELAYS IN IMPLEMENTATION OF ITS OBLIGATIONS UNDER DUNN-VANONI, REMINDING ITALIANS OF FOREIGN MINISTRY NOTE AFFIRMING VALIDITY OF AGREEMENT AND THEIR EARLIER PLAN FOR DISCHARGING THEIR DUNN-VANONI OBLIGATIONS. WE WOULD THEN INFORM THEM OF CONTRACT APPEALS BOARD DECISION, WHICH CREATES AN URGENT NEED FOR GOI ACTION, SINCE IT CAN BE ASSUMED THAT OTHER CLAIMANTS, WHEN THEY FIND OUT ABOUT THE BOARD DECISION, WILL NOW SEEK REMEDIAL ACTION THROUGH THE APPEALS BOARD OR CITE BOARD'S ACTION IN ORDER TO GAIN FAVORABLE DECISION IN ITALIAN COURTS. (WE HAVE ASKED AVV. ARDITO HIS OPINION ON THE IMPLICATIONS OF THE BOARD'S DECISION, WHICH WE ASSUME HE WILL ALSO REPORT THROUGH JUSTICE CHANNELS.) WE WOULD PUT QUESTION OF U.S. PAYMENT OF PAST CLAIMS IN CONTEXT OF CURRENT BURDENSARING DISCUSSIONS, NOTING THAT AT A MOMENT WHEN ALLIES ARE CONSIDERING WHAT NEW MEASURES CAN BE TAKEN IN THIS REGARD, FOR THE U.S. TO BE SADDLED WITH PAYING TAXES FOR U.S. FORCE EXPENDITURES IN THE FACE OF A VALID INTERNATIONAL AGREEMENT WOULD MOST DEFINITELY BE VIEWED AS LARGE STEP BACKWARD. WE WOULD EMPHASIZE TO THE GOI THAT, IF CONGRESS LEARNS OF THESE PAYMENTS, IT WOULD AFFECT MOST ADVERSELY THE ATMOSPHERE OF THE CRUCIAL CONGRESSIONAL DEBATES ON U.S. STROOP PRESENCE IN EUROPE WHICH WILL TAKE PLACE THIS FALL. WE WOULD THEN RECALL PASSAGES OF OUR TWO PREVIOUS NOTES CITED REFTEL HOLDING GOI RESPONSIBLE FOR ANY PAYMENT USG IS OBLIGED TO MAKE UNDER DUNN-VANONI, STRESSING POINT THAT USG WILL NOT FAIL TO CLAIM REIMBURSEMENT FROM GOI, THUS CREATING AN UNNECESSARY CONTENTIOUS ISSUE BETWEEN OUR TWO GOVERNMENTS.

4. THERE HAVE AS YET BEEN NO NEW DEVELOPMENTS IN PENDING LITIGATION HERE. CESICA HEARING SCHEDULED FOR OCTOBER 18. NEW MEDIOLI SUMMONS HAS STILL NOT BEEN RECEIVED. CESICA REPRESENTATIVE HAS INQUIRED OF MED ENGINEERS AS TO EFFECT OF BOARD'S DECISION ON OTHER PENDING CLAIMS, AND WAS TOLD THAT AS FAR AS USG IS CONCERNED BOARD'S DECISION WAS RELEVANT TO CASE BEFORE IT ONLY.

5. WE HAVE CONSIDERED WHETHER, UPON LEARNING OF CONTRACT BOARD'S DECISION, GOI WOULD TEND TO FEEL THAT BURDEN WAS NOW OFF ITS BACK AND WHETHER CHANCES OF GETTING ANY FURTHER ACTION

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ON DUNN-VANONI WOULD THUS VANISH. ON BALANCE, HOWEVER, WE FEEL THAT GOI'S DESIRE TO BE HELPFUL TO US WHERE IT CAN IN BURDENSARING PLUS IMMINENCE OF PAYMENT ON FIRST CLAIM MAY INDUCE AN EXTRA EFFORT ON PART OF HIGH GOI POLITICAL LEVELS TO SOLVE REIMBURSEMENT PROBLEM, EVEN THOUGH PAST HISTORY OF THIS SUBJECT RESTRAINS OUR OPTIMISM. DESPITE PERSONAL APPEALS OF AMBASSADOR TO ANDREOTTI AND FORMER MINISTER OF JUSTICE GONELLA, AND THEIR PROMISES TO INTERVENE, NO RESULTS WERE FORTHCOMING. AMBASSADOR

TOOK UP THE MATTER AGAIN, HOWEVER, WITH PRESENT MINISTER
FINANCE COLOMBO JUST AFTER NEW GOVERNMENT TOOK OFFICE, SO
IN A SENSE GROUND HAS BEEN PREPARED FOR A RENEWED DEMARCHE.VOLPE

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